

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

U.S. FIDELITY AND GUARANTY  
INSURANCE COMPANY,

Plaintiff,

v.

ORDER  
05-CV-440

JIM'S ELECTRIC AND GENERAL  
CONTRACTING, INC., et al.,

Defendants.

---

This case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1). On March 10, 2009, third-party defendant Catherine Faust filed a motion for summary judgment and to amend her answer to the third-party complaint to assert an affirmative defense based on the statute of limitations. On March 13, 2009, defendant J.S.R. Systems, Ltd. filed a motion for summary judgment and to amend its answer also.

In a Report and Recommendation and Order entered on February 3, 2010, the Magistrate Judge granted the motions to amend. The Magistrate Judge further recommended granting the Faust motion for summary judgment entirely and the J.S.R. Systems' motion in part.

Plaintiff filed objections to the order granting leave to amend on February 17, 2010 and filed objections to the recommendations regarding summary judgment on February 18, 2010. Defendants filed a response thereto.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, the Faust motion for summary judgment is granted and the J.S.R. Systems' motion is granted in part.

Pursuant to 28 U.S.C. § 636(b)(1)(A), the district court "may reconsider any pretrial matter under this [section] where it has been shown that the magistrate's order is clearly erroneous or contrary to law." The Court has reviewed plaintiff's objections and Magistrate Judge Schroeder's Order. Upon such review and after hearing argument from counsel, the Court finds that Magistrate Judge Schroeder's Order is neither clearly erroneous nor contrary to law.

Accordingly, the Court affirms the Order granting the motions to amend.

The case is referred back to Magistrate Judge Schroeder for further proceedings.

SO ORDERED.

*s/ Richard J. Arcara*

---

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: April 1, 2010